

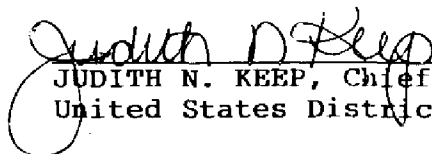
UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

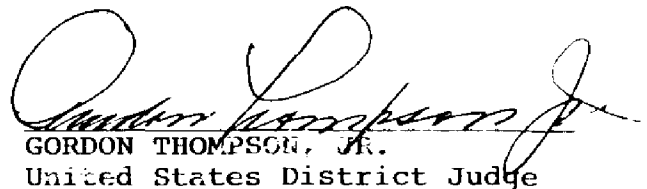
MANAGEMENT PLAN)
FOR COURT REPORTING)
AND RECORDING SERVICES)
_____)

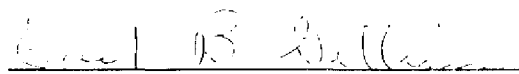
GENERAL ORDER NO. 285-C


The attached Management Plan for Court Reporting and Recording Services is hereby approved and adopted by this Court.

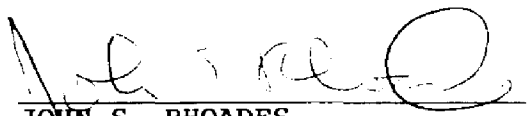
DATED: December 6, 1991

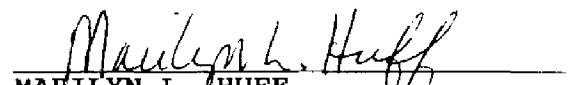

JUDITH N. KEEP, Chief Judge
United States District Court


GORDON THOMPSON, JR.
United States District Judge


EARL B. GILLIAM
United States District Judge


RUDI M. BREWSTER
United States District Judge


JOHN S. RHOADES
United States District Judge


MARILYN L. HUFF
United States District Judge

MANAGEMENT PLAN FOR COURT REPORTING
AND RECORDING SERVICES

For the United States District Court
Southern District of California

Adopted by the District Court on: December 6, 1991

Adopted by the Ninth Circuit Judicial Council on: January 22, 1992

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United States District Court
Southern District of California

**MANAGEMENT PLAN FOR COURT REPORTING
AND RECORDING SERVICES**

I.

Adoption of Plan By Court

This plan for the effective utilization of court reporters/recorders in the Southern District of California has been adopted by this court subject to final approval by the Ninth Circuit Judicial Council.

II.

Applicability of Plan

This Plan is applicable to all reporters/recorders employed by the Court.

III.

Supervision of Court Reporters/Recorders

The Chief Judge of the district court is responsible for the effective management of court reporting and recording services and for the timely and accurate production of transcripts by the court reporters and transcription firms under the Court's supervision. The Chief Judge delegates responsibility to the Clerk of Court who may designate a Court Reporter Supervisor whose duties and responsibilities shall include, but are not necessarily limited to, the following:

1. Assignment and reassignment of reporters/recorders for the purpose of distributing fairly and equitably the workload of all reporters/recorders, minimizing travel and assuring the lowest overall cost to the government.
2. Supervising the relationship between parties and reporters/recorders.

-
3. Monitoring all transcript/tape orders.
 4. Periodically reviewing transcripts on a random basis to assure full compliance with format requirements of the Administrative Office of the United States Courts and the Judicial Conference of the United States.
 5. Periodically reviewing transcript billings, on a random basis, to assure that authorized transcript rates are charged and that billing is in proper form. (See Appendix A for rates and Appendix B for information required to be included on all billings.)
 6. Periodically determining compliance by all court reporters with the provisions of 28 U.S.C. 753 concerning the recording, certifying, and filing of the tapes of all criminal arraignments, pleas, and proceedings in connection with the imposition of sentence.
 7. Periodically reviewing the time records of the court reporters/recorders to assure proper maintenance and accuracy.
 8. Periodically reviewing the records of the court reporters/recorders to assure timely filing of all reports required by the Administrative Office of the United States Courts and the Judicial Conference of the United States.
 9. Acting as liaison to the Court of Appeals as to matters pertinent to court reporters/recorders and transcript production.
 10. Performing such other duties relating to court reporting/recording services as shall be directed by the Court.
 11. Providing the Clerk all necessary information relating to the duties set forth above.
 12. Meeting with all court reporters at the time of separation to ensure that (a) all notes and tape recordings have been filed in accordance with 28 U.S.C. 753 and with paragraph XV of this Plan; (b) the court reporters understand their responsibility for preparing any transcripts currently ordered but not yet filed or which might be ordered after separation and properly execute a certification in this regard. (See Appendix E for certification form.)

All duties herein not specifically assigned to the Clerk of Court shall be deemed to be the responsibility of the Court Reporter Supervisor.

IV.

Employment of Reporters

Court reporters are employed by the Court en banc and shall retain employment at the will of the Court en banc, regardless of the death, resignation, or retirement of an individual judge. In the period between such occurrence and the appointment of a new judge, reporters shall continue to serve other active judges, senior judges and magistrate judges.

Court reporters shall be appointed in accordance with the provisions of 28 U.S.C. 753 and the policies and procedures of the Administrative Office of the United States Courts and the Judicial Conference of the United States. Only fully qualified reporters pursuant to 28 U.S.C. 753 shall be appointed. Pursuant to Judicial Conference policy, all initial appointments shall be on a probationary basis for a period of one year. Court reporters who do not perform in a competent and satisfactory manner or do not comply with requirements of this Plan shall be subject to dismissal.

Whenever a court reporter is separated (resigns, retires or is dismissed), he or she will be required to meet with the Court Reporter Supervisor and execute a certification form (Appendix E) regarding his/her responsibilities for the (a) filing of all official notes and tape recordings; (b) preparation of all transcripts which are currently ordered but not yet filed or which might be ordered after separation.

This District is presently authorized eight judges, each of whom is entitled to choose between a court reporter and a court recorder. We presently have five court reporters and four court recorders (one of whom is assigned to a senior judge). There are presently two judicial vacancies.

There are four senior judges, one of whom has a court recorder.

There are five magistrate judges with recording equipment but no assigned recorders.

Coverage of senior and visiting judges and magistrate judges is accomplished first by official reporters/recorders, then by contract reporters.

The number of contract court reporters depends on requirements for court coverage and the number approved by the Administrative Office. The number of contracts has fluctuated over the years depending on the availability of bidders; presently we have one firm and one individual on contract.

For several years the Administrative Office approved a contract with a court recording firm. Recently they have advised they are not permitted to give contracts to recording firms; however, if the need arises, and we are unable to cover courts, we will use the court recording firm.

V.

Assignment of Reporters/Recorders

In order to assure an equitable distribution of work among court reporters and recorders and to ensure the court's reporting service needs are met, reporters are employed by the Court en banc. Reporters/recorders shall be primarily assigned to an individual judge, but subject to temporary reassignment to other judges or magistrate judges in whatever manner meets the needs of the Court en banc and the goal of equitable work distribution.

Whether a reporter/recorder is available to cover proceedings for judicial officers other than the judge to whom he/she is primarily assigned depends on the extent of his/her other commitments on actual in-court/chambers services. Transcript preparation requirements may be considered, but do not in themselves free reporters from their responsibilities to record proceedings for judges, senior judges or magistrate judges.

VI.

Hours of Employment

Court reporters/recorders are placed on an 8-hour-per-day "regular tour of duty" effective January 1, 1990, and are permitted to earn annual and sick leave pursuant to the Leave Act, 5 U.S.C. 6301, et seq.

VII.

Freelance Reporting

Court reporters placed under the Leave Act are not permitted to perform any private (freelance) work of any kind during their regular tours of duty.

VIII.

Reporting Services to United States Magistrate Judges

Proceedings conducted before a United States magistrate judge may be recorded by electronic sound recording or by a court reporter. United States magistrate judges shall determine which method is to be used.

IX.

Contract/Freelance Court Reporters

Contract/freelance reporters may be utilized only when all official court reporters/recorders are occupied in court reporting proceedings pursuant to the policies of the Judicial Conference of the United States.

Contract/freelance reporters may be utilized in the place of official reporters/recorders on authorized leave pursuant to the terms of the Leave Act when no official reporter/recorder is available to replace the reporter/recorder on such leave.

Contract/freelance court reporters will not be paid by the court when official reporters are relieved of their courtroom duties to work on transcript backlogs. Costs associated with such contract/freelance reporting services shall be paid by the official reporter so relieved.

Travel of contract/freelance reporters within the district shall be limited to those occasions when no official reporter/recorder is available to travel to the location requiring reporting services and when such use of a contract/freelance reporter would be less costly to the government overall than utilizing an official reporter/recorder in travel status.

X.

Hourly/Daily Transcript

Production of hourly or daily transcripts will not be subsidized by the court. If extra court reporters are required to produce hourly or daily transcripts, the cost of such reporters shall be paid by the official court reporter. This provision does not prohibit other official reporters from assisting in producing such transcripts if there are no other proceedings to report and when no transcript backlog will result for the court reporter(s) providing assistance.

XI.

Ordering of Transcripts and Tapes

All requests for transcripts and/or tapes must be in writing and shall be forwarded to the appropriate reporter/recorder. Designations of Record filed in connection with appeals shall be forwarded to the reporter within one day of receipt by the Appeals Deputy.

Upon receipt of the order, the reporter/recorder shall promptly advise the ordering party of:

1. the estimated transcription fees and
2. the method to be followed for finalizing the transcript order:
 - a. deposit of the estimated fees with the reporter/recorder; or
 - b. in indigent criminal cases, submission of a properly completed and signed CJA-24 form authorizing payment of transcription fees under the Criminal

Justice Act; or

c. in indigent civil cases, a properly-approved order to proceed in forma pauperis. (See Appendix B for billing procedure.)

Upon receipt of a properly completed request with payment, CJA-24 form, or forma pauperis order, the reporter/recorder shall:

1. record the date, on transcript request, as the date the order was finalized;
(Note: This finalization of order date shall constitute the "date of order" for purposes of determining the reporter's/transcriber's compliance with time schedules and various transcription rates.)

2. record transcript request and date of finalization of order on Quarterly Transcript Order Ledger; and

3. proceed with preparation of transcript.

In the event suitable arrangements for payment of transcription fees are not made in cases on appeal, the reporter shall notify the court reporter supervisor and the Court of Appeals. The court reporter need not commence preparation of the transcript until suitable arrangements for payment have been made.

All provisions of Article VI, "Duties of the Court Reporter," to the Procedures for Preparation of Appellate Transcripts in the Ninth Circuit are incorporated herewith.

XII.

Fees for Transcripts of Official Proceedings

1. All transcripts shall be produced in the format required by the Judicial Conference of the United States.

2. No court reporter/transcriber employed by this district shall charge fees for transcripts of official proceedings which exceed those recommended by the Judicial Conference of the United States. (See Appendix A for rates.)

3. A schedule of the prescribed fees shall be posted in a prominent location in the Office of the Clerk.

4. Each court reporter shall maintain a permanent copy of each billing for official transcripts, making said copies available to the Clerk for inspection upon request. (See Appendix B for information required to be included on all billings.) The term "official transcript" shall be deemed to be any transcript of any proceeding before a judge or magistrate judge of this court, whether conducted in chambers or in open court, and regardless of the reason the transcript may be produced.

5. Each court reporter/transcriber is required to certify on each invoice that the fees charged and page format used conform to the regulations of the Judicial Conference of the United States.

6. For transcripts in non-appellate cases, the full price may be charged only if the transcript is delivered within the required time frame. For example, if an expedited transcript is not delivered within seven (7) calendar days, payment would be at the ordinary rate. For transcripts not delivered within thirty (30) calendar days, payment would be reduced to 90% of the ordinary rate. (See Appendix C for computation of transcript delivery dates.)

7. For transcripts in cases on appeal, the full price may be charged only if the transcript is delivered within thirty (30) days or within such other time as may be prescribed by the Court of Appeals. (See Appendix C for computation of transcript delivery dates.) Reduced rates for late delivery are as follows:

(a) Ninety (90%) percent for transcripts delivered between 31 to 60 days;

(b) Eighty (80%) percent for transcripts delivered after 60 days.

No fee may be charged which would be higher than the fee corresponding to the actual delivery time.

In the case of a transcript which is subject to FRAP 11(b), the reduction in fee may be waived by the Clerk of the Court of Appeals for good cause shown.

Nothing contained herein should be construed as sanctioning untimely delivery, nor should this provision be considered the only penalty which can be imposed by the court or Circuit Council on habitual offenders.

XIII.

C.J.A. Transcripts

1. Transcripts prepared under the Criminal Justice Act are billed on CJA-24.
2. The routine apportionment of accelerated transcript costs among parties in criminal cases is prohibited.
3. In multi-defendant cases involving CJA defendants, the regular per-page rate in effect for government requests may be charged for the transcript provided to the first in forma pauperis appellant only. Pursuant to authorization issued August 22, 1989, the per-page transcript fee for additional in forma pauperis appellants shall be as set by the court. A separate form must be utilized for each defendant.

XIV.

Time Limits for Delivery of Transcripts

All transcripts of official proceedings prepared for the purpose of appeal shall be delivered to the ordering party and filed with the Clerk of the District Court within the time limits prescribed.

Original transcripts ordered by judicial officers shall be provided to the judicial officer within the time prescribed by the order.

Neither the schedule for completion of a transcript in a case on appeal nor for a transcript of proceedings requested by a judicial officer shall be modified except by the Clerk of the Court of Appeals in cases involving appeal transcripts or the judicial officer requesting the transcript.

XV.

Filing of Stenographic/Shorthand Notes & Electronic Recordings

1. The stenographic/shorthand notes prepared by official court reporters shall be turned over to the Clerk of Court within ninety (90) days after the conclusion of the proceeding for filing and disposition in accordance with 28 U.S.C. 753(b). (See Appendix D and E.)

2. Pursuant to the provisions of 28 U.S.C. 753, court reporters must transcribe and certify all arraignments, pleas, and proceedings in connection with the imposition of sentence in criminal cases unless they have been recorded by electronic sound recording and such recording has been certified and is maintained in the office of the Clerk of Court. Reporters shall file a transcript of all such proceedings within thirty (30) days of their occurrence unless an electronic recording was made of the proceedings. In the event an electronic recording was made, the court reporter/recorder shall certify the recording and file same with the Clerk of Court. (See Appendix D.)

XVI.

Reports Required to be Filed

At regular intervals as specified by the Court Reporter Supervisor, each court reporter/recorder may be asked to file with the Court Reporter Supervisor an attendance report which details the amount of time that court reporter/recorder actually served in court, together with a detailed report describing any transcript backlog which may exist at the time of filing the report.

XVII.

Reports Required to be Filed with the Court Reporting Section of the Administrative Office of the U.S. Courts

1. The following reports shall be prepared by each official court reporter according to the schedule below:

a. The report of Attendance and Transcripts of the United States Court Reporters (AO-40A), shall be prepared quarterly and reviewed and signed by a supervising officer. A report for each calendar quarter shall be submitted to the Court Reporting Section, Administrative Office of the United States Courts, Washington, D.C. 20544, so that it reaches the office within twenty (20) days after the end of the quarter. A copy of this report shall also be filed with the Court Reporter Supervisor.

b. The Statement of Earnings of the United States Court Reporters (AO-40B) shall be prepared annually by all official court reporters. This report shall be mailed to the Court Reporting Section, Administrative Office of the United States Courts, Washington, D.C. 20544, within sixty (60) days after the end of the calendar year. A copy of this report shall also be filed with the Court Reporter Supervisor.

2. Each recorder shall prepare the Electronic Court Recorder Operator Quarterly Report (AO-40C) quarterly. A report for each calendar quarter shall be submitted to the Court Reporting Section, Administrative Office of the United States Courts, Washington, D.C. 20544, so that it reaches the office within twenty (20) days after the end of the quarter. A copy of this report shall also be filed with the Court Reporter Supervisor.

XVIII.

Substitute Court Reporters

In the event it is determined that a reporter has overdue transcript(s), said reporter may be required to hire and pay substitute reporter(s) until such time as the overdue transcripts have been prepared. The reporter shall have the responsibility for the transcript production of any substitute reporter(s) so hired.

XIX.

Records to be Maintained by Court Reporters

In order to permit the routine audit and inspection of records, official reporters must maintain accurate, legible, and up-to-date records of their expenses, attendance in court, transcript orders, and invoices. Such records may be maintained on forms prescribed by the Judicial Conference of the United States, including:

1. AO-37, Expense Ledger
2. AO-38, Attendance Ledger
3. AO-39, Transcript Order/Collections Ledger
4. AO-44, Invoice

XX.

Leave Policies

Upon assignment to a regular tour of duty, official court reporters shall accrue annual and sick leave pursuant to the provisions of the Leave Act of the United States, 5 U.S.C. 6301.

Leave records for official court reporters shall be maintained by the Clerk of the Court in the same manner as those of deputy clerks. All requests for leave shall be submitted on form SF-71, Application for Leave, and must be approved by the Court Reporter Supervisor.

Annual and sick leave are chargeable in one-hour increments. All annual leave requested must be accrued before it may be used. Planned sick leave (i.e., appointments, treatments, etc.) must be requested far enough in advance to permit the scheduling of an alternate reporter/recorder.

Other provisions governing use of annual and sick leave are contained in the Personnel Manual of the Court.

XXI.

Transcript Backlogs

The Court Reporter Supervisor is authorized to take necessary steps to reduce or eliminate transcript backlogs or production delays. Such steps may include, but are not necessarily limited to the following:

1. Use of substitute or additional reporters;
2. Reassignment or rotation of official reporters/recorders;
3. Requiring official reporters to hire substitutes at their own expense;
4. *Institution of progressive discipline as may be provided for in the Personnel Manual of the Court.* Termination of any official reporter must be approved by the Court en banc.

XXII.

Miscellaneous Provisions

1. The work of all court reporters shall be "notereadable" so that the notes of a court reporter can be read by another reporter if necessary.
2. The marking, filing and storing of all notes and tapes shall be in accordance with the note storage procedures outlined in this Plan. (See Appendix D.)
3. Discipline and/or sanctions of reporters/recorders shall be pursuant to the provisions of this Plan and/or the Personnel Manual of the court.

APPENDIX A

Transcript Fee Rates

Transcript fee rates are as approved by the U.S. Judicial Conference and set by General Order. The rates are applicable to each page of transcript, excluding the certification page which must be at the end of each volume of transcript.

Definition of Method of Transcription

Ordinary: Transcript to be delivered within 30 days.

Expedited: Transcript to be delivered within 7 days.

Daily: Transcript to be delivered following adjournment and prior to normal opening hour of court on following morning whether or not it actually be a court day.

Hourly: Transcript (ordered under unusual circumstances) to be delivered within two hours.

NOTE 1: For multi-defendant criminal cases involving CJA defendants, please refer to Section XIII.3 of this Plan.

NOTE 2: At its September 1990 session, the Judicial Conference approved the recommendation that the page rate for government-paid transcripts be increased to rates authorized for nongovernment-paid transcripts. Implementation of the change in government-paid rates is expected to become effective with fiscal year 1992.

APPENDIX B

Information Required to be Included on All Billings

1. Name of Client
2. Criminal or Civil Docket Number
3. Date Ordered
4. Date Delivered
5. In the Matter of _____
6. Number of Pages
7. Number of Copies
8. Type of Delivery Schedule
9. Discount
10. Refunds
11. Total Due
12. Certification of Reporter or Transcription Firm of Compliance with Fee and Transcript Format Prescribed by the Judicial Conference.

Billing Procedure

Private Parties (nongovernment, nonpauper cases): Form AO-44, Invoice, is available (free of charge) from the Administrative Office of the U.S. Courts for use by court reporters. If personalized forms are used, they must contain above data.

Indigent Criminal Cases: Bill the District Court on Standard Form CJA-24, citing the proper authorization codes, which, in fiscal year 1992, are, "92 092340 RESCJAF D09CAS* 2532 \$(_____)," replacing "*" with "G" for Federal Defenders or "H" for panel attorneys and specially appointed attorneys ordering transcript.

Indigent Civil Cases: For civil forma pauperis transcripts, the reporter shall bill the District Court on Standard Form 1034 citing the proper authorization codes, which, in fiscal year 1992, are "92 0920DC 0XXDDCX D09CAS* 2532," replacing "*" with "J" for District Judge or "M" for Magistrate Judge ordering transcript.

APPENDIX C

Computation of Transcript Delivery Dates

Transcript delivery dates are computed from:

1. The date on which satisfactory financial arrangements are made, except for transcripts to be paid for by the United States or free copies ordered by the court;
2. The date on which the appropriate Transcript Order or CJA-24 authorization is received by the reporter/transcriber when the transcript is to be paid for by the United States;
3. The date on which the court order is provided to the reporter/transcriber when a transcript has been ordered by a judicial officer.

APPENDIX D

Procedures for Storage of Court Reporters' Notes and Tapes

All shorthand notes and tapes are to be turned over to the Clerk of Court within 90 days after the conclusion of the proceeding. If a transcript is ordered in a case on which the notes have been submitted to the Clerk, the court reporter shall order the notes from storage and shall refile the notes with the Clerk when the transcript is completed.

Procedures for Storage of Shorthand Notes.

1. All notes shall be filed chronologically and placed in FRC boxes which can be obtained from the Clerk's office.

2. The outside of the box should be marked with a label indicating the court reporter's full name, the calendar year, and the month and date of notes contained therein. (See Appendix F.)

3. If the notes for a particular month are too voluminous to be stored in one box, the reporter shall use as many boxes as necessary and identify them in sequence; e.g., Box 89-1(a), Box 89-1(b), Box 89-1(c), would all contain notes for January, 1989. Conversely, if the notes for a particular month do not fill one box, the notes for several months may be stored in one box as long as it is identified as follows: Box 89-1, 89-2, 89-3.

4. Each packet of notes shall be certified, as follows:

CERTIFICATE

I hereby certify that the attached are the original shorthand notes of the proceedings herein reported by me on _____.

Dated: _____
Official Reporter, U.S.D.C.

Pad No. _____ of _____

5. In order to maintain the security of their shorthand notes, it is recommended that reporters place their notes in containers on a daily basis and secure them at end of the day within their offices.

Procedures for Storage of Original Tape Recordings.

In accordance with 28 USC 753(b), court reporters are required to file with the Clerk of Court either a transcript or an electronic sound recording of all arraignments, pleas, sentences, and other proceedings required by the court. Accordingly, all tape recordings of official proceedings are to be turned over to the Clerk of Court within ninety (90) days after conclusion of a proceeding. Each tape, or series of tapes within the same storage box, must be accompanied by a "Certificate of Official Court Reporter."

(See Enclosure 2.)

CERTIFICATE OF REPORTER FOR ORIGINAL NOTES

In accordance with 28 U.S.C. 753(b), each reporter shall stamp the following certification on each pad of shorthand notes:

CERTIFICATE

I hereby certify that the attached are the original shorthand notes of the
proceedings herein reported by me on _____.

Dated: _____

Official Reporter, U.S.D.C.

Pad No. _____ of _____

A day of shorthand notes may include several pads of notes. Each pad shall be numbered in sequence, as "Pad A of D," "Pad B of D," the final letter designation constituting the last letter used for the day (e.g., if there are four pads of notes, "D" will be the last letter used.)

CERTIFICATE OF REPORTER FOR ELECTRONIC RECORDINGS

TO: CLERK OF THE COURT
UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

I, _____, certify that I am a duly appointed official court reporter for the United States District Court named above, and I was present in the courtroom of said court or employed a pro tempore reporter during the period _____ through _____, 19__; and, in the regular course of my profession, made an electronic sound recording of the proceedings had in those cases indicated on the attached calenders for said court; or, in the alternative, I have supplied herewith a typewritten transcript of such proceedings.

I certify that these recordings are true and correct records of the proceedings had, that they are sufficiently intelligible when played on a _____ recorder, and that I have filed the original of said recordings in the envelope to which this certification is attached.

Official Reporter

San Diego, California

Date: _____

APPENDIX E

Certification of Court Reporter Upon Separation

Name: _____ Date of Separation: _____

Address: _____

City: _____ State: _____ Telephone: _____

The following certification is made to the Clerk of Court upon my separation:

1. That all of my stenographic/shorthand notes or tape recordings have been filed with the Clerk of Court;

2. That I am responsible for preparing any transcripts currently ordered but not yet filed and any transcripts ordered after my separation.

3. That I will immediately inform the Clerk of Court of any change in my address or telephone numbers in order to facilitate the preparation of transcripts.

Court Reporter

Court Reporter Supervisor

Dated: _____

Dated: _____

APPENDIX F

Storage of Court Reporter's Notes, AO-429

AO 429
(10/84)

COURT REPORTER'S NOTES

From _____

To _____

Reporter _____ **Box No.** _____